

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

TONISHA T. ROBINSON, ) Case No. CV 12-09469-DSF (DFM)  
Plaintiff, )  
v. ) ORDER TO SHOW CAUSE  
NENITA BULANDUS et al., )  
Def. 1 )

Plaintiff filed this pro se civil rights action on November 16, 2012, after being granted leave to proceed in forma pauperis. On April 19, 2013, the previously-assigned U.S. Magistrate Judge concluded that Plaintiff's Third Amended Complaint arguably stated claims for unlawful search/excessive force against defendants Bulandus, Duarte, Chung, Horn, Frias, and Zehner, and accordingly authorized service on those individual defendants. Dkt. 29. On the same date, the Court issued an order regarding Plaintiff's time limit for serving her Third Amended Complaint, warning Plaintiff that failure to effect service within 120 days would potentially result in dismissal of her case:

Plaintiff is advised that, under Federal Rule of Civil Procedure 4(m), service of the summons and Third Amended Complaint must be accomplished on each named defendant within 120 days after the filing of the

1           Third Amended Complaint. Because the Court prohibited plaintiff from  
2 serving the Complaint while it was being screened, the Court extends the 120-  
3 day period to commence as of the date of this order. The 120-day period as  
4 extended will expire on August 19, 2013. Plaintiff is warned that her failure to  
5 effect service by that date may result in the dismissal of the action without  
6 prejudice as to any unserved defendant(s) by reason of plaintiff's failure to  
7 prosecute, unless plaintiff can show good cause for extending the time for  
8 service.

9 Dkt. 30 (emphasis in original).

10          On June 4, 2013, Plaintiff filed documents purporting to be proofs of service on  
11 defendants Balandus, Duarte, Chung, Horn, Frias, and Zehner as well as several other  
12 entities. Dkt. 36, 37, 38, 39, 40. On July 2, 2013, Plaintiff filed an application requesting the  
13 Court to enter defendants' default and a default judgment. Dkt. 41.

14          On August 21, 2013, the previously-assigned U.S. Magistrate Judge issued an order  
15 denying Plaintiff's request to enter default without prejudice. The Court noted that the only  
16 authorized defendants are the individual defendants Balandus, Duarte, Chung, Horn, Frias,  
17 and Zehner and that “[n]o State or local government agency, corporation, partnership or  
18 association remains as a defendant in this action.” Dkt. 44 at 1. After recounting the  
19 statutory methods for serving an individual defendant, the Court then noted that “it is  
20 unclear from the proofs of service filed on June 4, 2013, that the individual defendants were  
21 properly served.” Id. at 2.<sup>1</sup>

22          Over 30 days has passed since the previously-assigned Magistrate Judge's order  
23 finding that there was inadequate evidence of service. In the meantime, no other proofs of  
24 service have been filed by Plaintiff. The 120-day period for service expired more than 30  
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26          <sup>1</sup> The Court notes that the proofs of service filed on June 4, 2013, are largely illegible.  
27 Plaintiff is advised that the Court cannot determine that proper service has been effectuated  
if Plaintiff cannot submit legible documents.

1 days ago. Accordingly, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and  
2 Local Rule 41-1,

3 IT IS HEREBY ORDERED that, on or before November 8, 2013, plaintiff shall  
4 show good cause, if there is any, why proper service has not been made on defendants  
5 Bulandus, Duarte, Chung, Horn, Frias, and Zehner within the 120-day period and why this  
6 action should not be dismissed without prejudice for lack of prosecution. Plaintiff shall  
7 attempt to show such cause by filing a declaration, signed by plaintiff under penalty of  
8 perjury. For any of these defendants as to whom plaintiff does not timely file such a  
9 declaration or fails to show good cause for her failure to timely serve, the Court intends to  
10 recommend that the action be dismissed without prejudice for lack of prosecution. See Fed.  
11 R. Civ. P. 4(m); Local Rule 41-1; Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962).

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13 Dated: September 24, 2013



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15 DOUGLAS F. McCORMICK  
16 United States Magistrate Judge  
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